

AMENDED IN SENATE JULY 1, 2008
AMENDED IN SENATE JUNE 9, 2008
AMENDED IN ASSEMBLY APRIL 24, 2007
AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1188

Introduced by Assembly Member Coto

February 23, 2007

An act to amend Section 742.245 of the Insurance Code, relating to multiple employer welfare arrangements.

LEGISLATIVE COUNSEL'S DIGEST

AB 1188, as amended, Coto. Multiple employer welfare arrangements: investments.

Existing law provides for the certification by the Insurance Commissioner of self-funded or partially self-funded multiple employer welfare arrangements (MEWAs) if certain requirements are met, including maintaining a specified cash surplus. Existing law requires a self-funded or partially self-funded MEWA to maintain 25% of that surplus in specified investments and authorizes the balance of the assets of the MEWA to be invested in certain other investments, as specified. Existing law requires a self-funded or partially self-funded MEWA transacting business in the state to file certain financial statements with the commissioner.

This bill would authorize a self-funded or partially self-funded MEWA to ~~purchase~~ *invest the balance of its assets in* an office building or buildings that will be used for its principal operations and business if

the MEWA *obtains the commissioner's prior written approval and* treats the building or buildings as nonadmitted assets in the financial statements filed with the commissioner; ~~except as specified, and obtains the commissioner's prior written approval for any buildings purchased from its sponsoring association.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 742.245 of the Insurance Code is
2 amended to read:
3 742.245. (a) A self-funded or partially self-funded multiple
4 employer welfare arrangement shall maintain at least 25 percent
5 of the surplus required by subdivision (n) of Section 742.24 in
6 investments specified in Article 3 (commencing with Section 1170)
7 of Chapter 2 of Part 2 of Division 1 and in Section 1192.5.
8 (b) The balance of the assets of a self-funded or partially
9 self-funded multiple employer welfare arrangement may be
10 invested in the following:
11 (1) An open-ended diversified management company, as defined
12 in the federal Investment Company Act of 1940 (15 U.S.C. 80a-1
13 et seq.), that meets all of the following requirements:
14 (A) It is registered with, and reports to, the Securities and
15 Exchange Commission.
16 (B) It is domiciled in the United States.
17 (C) Substantially all of its investments consist of investment
18 grade debt instruments and cash.
19 (D) All of its assets are held in the United States by a bank, trust
20 company, or other custodian chartered by the United States, its
21 states, or territories.
22 (2) An amount not to exceed 75 percent of any excess of
23 invested assets over the sum of the reserves and related actuarial
24 items held in support of policies and contracts, plus the surplus
25 required by subdivision (n) of Section 742.24, may be invested in
26 the following:
27 (A) An open-ended diversified management company, as defined
28 in the federal Investment Company Act of 1940 (15 U.S.C. 80a-1
29 et seq.), that meets all of the following requirements:

1 (i) It is registered with, and reports to, the Securities and
2 Exchange Commission.

3 (ii) It is domiciled in the United States.

4 (iii) Its investments consist of common and preferred stocks
5 and cash.

6 (iv) All of its assets are held in the United States by a bank, trust
7 company, or other custodian chartered by the United States, its
8 states, or territories.

9 (B) Corporate notes, bonds, and preferred stocks that meet all
10 of the following requirements:

11 (i) The issuer is domiciled in the United States or Canada.

12 (ii) The investments are rated investment grade or better by at
13 least two of the following rating agencies, or their successors:

14 (I) Standard & Poor's.

15 (II) Moody's.

16 (III) Fitch.

17 (iii) The investments are exchange-traded. "Exchange-traded"
18 as used in this clause means listed and traded on the National
19 Market System of the NASDAQ Stock Market or on a securities
20 exchange subject to regulation, supervision, or control under a
21 statute of the United States and acceptable to the commissioner.

22 (C) An investment in a single issuer made pursuant to
23 subparagraph (B) shall not exceed in the aggregate 10 percent of
24 the multiple employer welfare arrangement's funds described in
25 this paragraph.

26 (3) An investment made pursuant to paragraph (1) or
27 subparagraph (A) of paragraph (2) shall be made in, at minimum,
28 three of the companies described in those provisions.

29 ~~(e) Notwithstanding subdivisions (a) and (b), a self-funded or~~
30 ~~partially self-funded multiple employer welfare arrangement may~~
31 ~~purchase an office building or buildings that will be used for the~~
32 ~~multiple employer welfare arrangement's principal operations and~~
33 ~~business if both of the following requirements are met:~~

34 ~~(1) The multiple employer welfare arrangement obtains prior~~
35 ~~written approval from the commissioner if the building or buildings~~
36 ~~are purchased from the multiple employer welfare arrangement's~~
37 ~~sponsoring association.~~

38 ~~(2) The office building or buildings purchased are treated on~~
39 ~~the financial statements filed with the commissioner pursuant to~~
40 ~~Section 742.31 as nonadmitted assets, except to the extent that the~~

1 commissioner, in his or her judgment, authorizes in advance any
2 part of the value of the building or buildings to be an admitted
3 asset.

4 (4) *An office building or buildings that will be used for the*
5 *multiple employer welfare arrangement's principal operations*
6 *and business if both of the following requirements are met:*

7 (A) *The multiple employer welfare arrangement obtains prior*
8 *written approval from the commissioner.*

9 (B) *The office building or buildings are treated on the financial*
10 *statements filed with the commissioner pursuant to Section 742.31*
11 *as nonadmitted assets.*

12 ~~(d)~~

13 (c) The commissioner may, in his or her discretion and after a
14 hearing, require by written order disposal of an investment made
15 either in violation of, or no longer in compliance with, this section.
16 The commissioner may also, after a hearing, require the disposal
17 of any investment made pursuant to paragraph (2) of subdivision
18 (b) if the multiple employer welfare arrangement has failed to
19 maintain cash or liquid assets sufficient to meet its claims and any
20 other contractual obligations. The commissioner may also for good
21 cause and after a hearing, by written order require the disposal of
22 an investment described in subdivision (b).